

§ 223.52

§ 223.52 Market-related contract term additions.

(a) *Contract provision.* (1) Except as provided in paragraph (a)(3) of this section, each timber sale contract exceeding 1 year in length shall contain a provision for the addition of time to the contract term, under the following conditions:

(i) The Chief of the Forest Service has determined that adverse wood products market conditions have resulted in a drastic reduction in wood product prices applicable to the sale; and

(ii) The purchaser makes a written request for additional time to perform the contract.

(2) The contract term addition provision of the contract must specify the index to be applied to each sale. The Forest Supervisor shall determine, and select from paragraph (b) of this section, the index to be used for each sale based on the species and product characteristics, by volume, being harvested on the sale. The index specified shall represent more than one-half of the advertised volume.

(3) A market-related contract term addition provision shall not be included in contracts where the sale has a primary objective of harvesting timber subject to rapid deterioration.

(b) *Determination of drastic wood product price reductions.* (1) The Forest Service shall monitor and use Producer Price Indices, as prepared by the Department of Labor, Bureau of Labor Statistics (BLS), adjusted to a constant dollar base, to determine if market-related contract term additions are warranted.

(i) The Forest Service shall monitor and use only the following indices:

BLS producer price index	Index series	Index code
Hardwood Lumber	Commodity	0812
Softwood Lumber	Commodity	0811
Wood Chips	Industry	3211135

(ii) Preliminary index values will be revised when final index values become available, however, determination of a qualifying quarter will not be revised when final index values become available.

(2) For PPI index codes 0811 and 0812, the Chief of the Forest Service shall

determine that a drastic reduction in wood prices has occurred when, for any 2 or more consecutive qualifying quarters, the applicable adjusted price index is less than 88.5 percent of the average of such index for the 4 highest of the 8 calendar quarters immediately prior to the qualifying quarter. A qualifying quarter is a quarter, following the contract award date, where the applicable adjusted index is more than 11.5 percent below the average of such index for the 4 highest of the previous 8 calendar quarters. For PPI index code 3211135, the Chief of the Forest Service shall determine that a drastic reduction in wood prices has occurred when, for any 2 or more consecutive qualifying quarters, the adjusted price index is less than 85 percent of the average of such index for the 4 highest of the 8 calendar quarters immediately prior to the qualifying quarter. A qualifying quarter is a quarter, following the contract award date, where the adjusted index is more than 15 percent below the average of such index for the 4 highest of the previous eight calendar quarters. Qualifying quarter determinations will be made using the Producer Price Indices for the months of March, June, September, and December.

(3) A determination, made pursuant to paragraph (b)(2) of this section, that a drastic reduction in wood product prices has occurred, shall constitute a finding that the substantial overriding public interest justifies the contract term addition.

(c) *Granting market-related contract term additions.* When the Chief of the Forest Service determines, pursuant to this section, that a drastic reduction in wood product prices has occurred, the Forest Service is to notify affected timber sale purchasers. For any contract which has been awarded and has not been terminated, the Forest Service, upon a purchaser's written request, will add 1 year to the contract's terms, except as provided in paragraphs (c)(1) through (4) of this section. This 1-year addition includes time outside of the normal operating season.

(1) Additional contract time may not be granted for those portions of the contract which have a required completion date or for those portions of the

contract where the Forest Service determines that the timber is in need of urgent removal or that timber deterioration or resource damage will result from delay.

(2) For each additional consecutive quarter, in which a contract qualifies for a market-related contract term addition, the Forest Service will, upon the purchaser's written request, add an additional 3 months during the normal operating season to the contract.

(3) No more than twice the original contract length or 3 years, whichever is less, shall be added to a contract's term by market-related contract term addition.

(4) In no event shall a revised contract term exceed 10 years as a result of market-related contract term additions.

(d) *Recalculation of periodic payments.* Where a contract is lengthened as a result of market conditions, any subsequent periodic payment dates shall be delayed 1 month for each month added to the contract's term.

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§ 223.53 Urgent removal contract extensions.

(a) *Finding.* There is substantial, overriding public interest in extending National Forest System timber sale contracts for undamaged (green) timber not requiring expeditious removal in order to facilitate the rapid harvest of catastrophically damaged timber requiring expeditious removal on private or other non-National Forest System lands. Such an extension may be granted when a specific catastrophic event beyond the control of the landowner occurs on non-National Forest System lands that poses a threat to general forest health, public safety, and property. Catastrophic events include, but are not limited to, severe wildfire, wind, floods, insects and disease infestation, and drought.

(b) *Regional Forester determination.* If the Regional Forester determines that adequate cause for urgent removal extensions exists, Contracting Officers may extend National Forest System timber sale contracts, up to a maximum of 1 year, for the estimated

amount of time required to harvest and process the damaged timber on non-National Forest System lands. Contracting Officers may grant urgent removal extensions only when the Regional Forester verifies in writing that:

(1) A specific catastrophe occurred for which urgent removal extensions should be granted;

(2) The manufacturing facilities or logging equipment capacity available to purchasers are insufficient to provide for both the rapid harvest of damaged non-National Forest System timber in need of expeditious removal and the continued harvest of undamaged (green) timber under contract with the Forest Service; and

(3) Failure to harvest the damaged non-National Forest System timber promptly could result in the following:

(i) Pose a threat to public safety,

(ii) Create a threat of an insect or disease epidemic to National Forest System or other lands or resources, or

(iii) Significant private or other public resource loss.

(c) *Purchaser request.* To obtain an urgent removal extension on a National Forest System timber sale contract, a purchaser must make a written request to the Contracting Officer, which includes the following:

(1) An explanation of why the harvest of undamaged (green) National Forest System timber within the term of the existing National Forest System contract(s) will prevent or otherwise impede the removal of damaged non-National Forest System timber in need of expeditious removal; and

(2) Documentation that the manufacturing facilities or logging equipment capacity available to a purchaser would be insufficient to provide for both the rapid salvage of damaged non-National Forest System timber in need of expeditious removal and continued harvest of undamaged (green) National Forest System timber under contract with the Forest Service.

(d) *Contracting Officer determination.* To grant an urgent removal extension, the timber sale Contracting Officer must verify the following: